

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

LUCY BALESTER,

Plaintiff,

v.

Case No. 15-11050
Honorable Denise Page Hood

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

**ORDER ACCEPTING REPORT AND RECOMMENDATION
AND DISMISSING ACTION**

This matter comes before the Court on Magistrate Judge Elizabeth A. Stafford's Report and Recommendation. [#20] Plaintiff Lucy Balester filed this action on March 20, 2015, asking this Court to review the Commissioner's final decision to deny her application for disability insurance benefits. The parties filed cross motions for summary judgment. The Magistrate Judge recommends that the Court grant the Commissioner's Motion for Summary Judgment, deny Plaintiff's Motion for Summary Judgment, and dismiss Plaintiff's cause of action. Neither party filed any objections to the Report and Recommendation.

Judicial review of the Commissioner's decision is limited in scope to determining whether the Commissioner employed the proper legal criteria in reaching

his conclusion. *Garner v. Heckler*, 745 F.2d 383 (6th Cir. 1984). The credibility findings of an administrative law judge (“ALJ”) must not be discarded lightly and should be accorded great deference. *Hardaway v. Secretary of Health and Human Services*, 823 F.2d 922, 928 (6th Cir. 1987). A district court’s review of an ALJ’s decision is not a *de novo* review. The district court may not resolve conflicts in the evidence nor decide questions of credibility. *Garner*, 745 F.2d at 397. The decision of the Commissioner must be upheld if it is supported by substantial evidence, even if the record might support a contrary decision or if the district court arrives at a different conclusion. *Smith v. Secretary of HHS*, 893 F.2d 106, 108 (6th Cir. 1984); *Mullen v. Bowen*, 800 F.2d 535, 545 (6th Cir. 1986).

The Court has had an opportunity to review this matter and finds that the Magistrate Judge reached the correct conclusions for the proper reasons. Finding no error in the Magistrate Judge’s Report and Recommendation, the Court adopts the Report and Recommendation in its entirety. Furthermore, as neither party has raised an objection to the Report and Recommendation, the Court finds that the parties have waived any further objections to the Report and Recommendation. *Smith v. Detroit Fed’n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987) (a party’s failure to file any objections waives his or her right to further appeal); *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

For the reasons stated above,

IT IS ORDERED that the Report and Recommendation [Docket No. 20, filed July 20, 2016] is **ADOPTED** as this Court's findings of fact and conclusions of law.

IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgment [Docket No. 13, filed June 20, 2015] is **DENIED**.

IT IS FURTHER ORDERED that the Commissioner's Motion for Summary Judgment [Docket No. 16, filed September 23, 2015] is **GRANTED**.

IT IS FURTHER ORDERED that this action is **DISMISSED** with prejudice.

DATED: September 15, 2016

s/Denise Page Hood
DENISE PAGE HOOD
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email addresses or First Class U.S. mail disclosed on the Notice of Electronic Filing on September 15, 2016.

s/Kelly Winslow for
La Shawn Saulsberry
Case Manager for Chief Judge Denise Page Hood